

**TITLE 78 RECODIFICATION - TITLE 78A****CHAPTER 2**

2008 GENERAL SESSION

STATE OF UTAH

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**LONG TITLE****General Description:**

Title 78A, Chapter 3, Supreme Court.

**Highlighted Provisions:**

This bill:

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**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****RENUMBERS AND AMENDS:**

**78A-2-101**, (Renumbered from 78-2-1, as last amended by Laws of Utah 1990, Chapter 80)

**78A-2-102**, (Renumbered from 78-2-2, as last amended by Laws of Utah 2001, Chapter 302)

**78A-2-103**, (Renumbered from 78-2-4, as enacted by Laws of Utah 1986, Chapter 47)

**78A-2-104**, (Renumbered from 78-2-6, as last amended by Laws of Utah 1986, Chapter 47)

**78A-2-105**, (Renumbered from 78-2-7.5, as enacted by Laws of Utah 1988, Chapter 248)

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*Be it enacted by the Legislature of the state of Utah:*

Section 1. Section **78A-2-101**, which is renumbered from Section 78-2-1 is renumbered and amended to read:

~~[78-2-1]~~.     **78A-2-101**. Number of justices -- Terms -- Chief justice and

**associate chief justice -- Selection and functions.**

(1) The Supreme Court consists of five justices.

(2) A justice of the Supreme Court shall be appointed initially to serve until the first general election held more than three years after the effective date of the appointment.

Thereafter, the term of office of a justice of the Supreme Court is ten years and commences on the first Monday in January following the date of election. A justice whose term expires may serve upon request of the Judicial Council until a successor is appointed and qualified.

(3) The justices of the Supreme Court shall elect a chief justice from among the members of the court by a majority vote of all justices. The term of the office of chief justice is four years. The chief justice may serve successive terms. The chief justice may resign from the office of chief justice without resigning from the Supreme Court. The chief justice may be removed from the office of chief justice by a majority vote of all justices of the Supreme Court.

(4) If the justices are unable to elect a chief justice within 30 days of a vacancy in that office, the associate chief justice shall act as chief justice until a chief justice is elected under this section. If the associate chief justice is unable or unwilling to act as chief justice, the most senior justice shall act as chief justice until a chief justice is elected under this section.

(5) In addition to the chief justice's duties as a member of the Supreme Court, the chief justice has duties as provided by law.

(6) There is created the office of associate chief justice. The term of office of the associate chief justice is two years. The associate chief justice may serve in that office no more than two successive terms. The associate chief justice shall be elected by a majority vote of the members of the Supreme Court and shall be allocated duties as the chief justice determines. If the chief justice is absent or otherwise unable to serve, the associate chief justice shall serve as chief justice. The chief justice may delegate responsibilities to the associate chief justice as consistent with law.

Section 2. Section **78A-2-102**, which is renumbered from Section 78-2-2 is renumbered and amended to read:

**[78-2-2].      78A-2-102. Supreme Court jurisdiction.**

(1) The Supreme Court has original jurisdiction to answer questions of state law certified by a court of the United States.

(2) The Supreme Court has original jurisdiction to issue all extraordinary writs and

63 authority to issue all writs and process necessary to carry into effect its orders, judgments, and  
64 decrees or in aid of its jurisdiction.

65 (3) The Supreme Court has appellate jurisdiction, including jurisdiction of  
66 interlocutory appeals, over:

67 (a) a judgment of the Court of Appeals;

68 (b) cases certified to the Supreme Court by the Court of Appeals prior to final  
69 judgment by the Court of Appeals;

70 (c) discipline of lawyers;

71 (d) final orders of the Judicial Conduct Commission;

72 (e) final orders and decrees in formal adjudicative proceedings originating with:

73 (i) the Public Service Commission;

74 (ii) the State Tax Commission;

75 (iii) the School and Institutional Trust Lands Board of Trustees;

76 (iv) the Board of Oil, Gas, and Mining;

77 (v) the state engineer; or

78 (vi) the executive director of the Department of Natural Resources reviewing actions of  
79 the Division of Forestry, Fire and State Lands;

80 (f) final orders and decrees of the district court review of informal adjudicative  
81 proceedings of agencies under Subsection (3)(e);

82 (g) a final judgment or decree of any court of record holding a statute of the United  
83 States or this state unconstitutional on its face under the Constitution of the United States or the  
84 Utah Constitution;

85 (h) interlocutory appeals from any court of record involving a charge of a first degree  
86 or capital felony;

87 (i) appeals from the district court involving a conviction or charge of a first degree  
88 felony or capital felony;

89 (j) orders, judgments, and decrees of any court of record over which the Court of  
90 Appeals does not have original appellate jurisdiction; and

91 (k) appeals from the district court of orders, judgments, or decrees ruling on legislative  
92 subpoenas.

93 (4) The Supreme Court may transfer to the Court of Appeals any of the matters over

which the Supreme Court has original appellate jurisdiction, except:

(a) capital felony convictions or an appeal of an interlocutory order of a court of record involving a charge of a capital felony;

(b) election and voting contests;

(c) reapportionment of election districts;

(d) retention or removal of public officers;

(e) matters involving legislative subpoenas; and

(f) those matters described in Subsections (3)(a) through (d).

(5) The Supreme Court has sole discretion in granting or denying a petition for writ of certiorari for the review of a Court of Appeals adjudication, but the Supreme Court shall review those cases certified to it by the Court of Appeals under Subsection (3)(b).

(6) The Supreme Court shall comply with the requirements of Title 63, Chapter 46b, Administrative Procedures Act, in its review of agency adjudicative proceedings.

Section 3. Section **78A-2-103**, which is renumbered from Section 78-2-4 is renumbered and amended to read:

**~~[78-2-4].~~      78A-2-103. Supreme Court -- Rulemaking, judges pro tempore, and practice of law.**

(1) The Supreme Court shall adopt rules of procedure and evidence for use in the courts of the state and shall by rule manage the appellate process. The Legislature may amend the rules of procedure and evidence adopted by the Supreme Court upon a vote of two-thirds of all members of both houses of the Legislature.

(2) Except as otherwise provided by the Utah Constitution, the Supreme Court by rule may authorize retired justices and judges and judges pro tempore to perform any judicial duties. Judges pro tempore shall be citizens of the United States, Utah residents, and admitted to practice law in Utah.

(3) The Supreme Court shall by rule govern the practice of law, including admission to practice law and the conduct and discipline of persons admitted to the practice of law.

Section 4. Section **78A-2-104**, which is renumbered from Section 78-2-6 is renumbered and amended to read:

**~~[78-2-6].~~      78A-2-104. Appellate court administrator.**

The appellate court administrator shall appoint clerks and support staff as necessary for

125 the operation of the Supreme Court and the Court of Appeals. The duties of the clerks and  
126 support staff shall be established by the appellate court administrator, and powers established  
127 by rule of the Supreme Court.

128 Section 5. Section **78A-2-105**, which is renumbered from Section 78-2-7.5 is  
129 renumbered and amended to read:

130 **~~[78-2-7.5].~~ 78A-2-105. Service of sheriff to court.**

131 The court may at any time require the attendance and services of any sheriff in the state.